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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Seguin et al. GROUP: 2876
SERIAL NO: 10/056,352 EXAMINER: Koyama, Kumiko C.
FILED: January 24, 2002
FOR: TEST TUBE WITH DATA MATRIX CODE MARKINGS

Mail Stop Appeal Briefs
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO EXAMINER'S ANSWER

Pursuant to 37 C.F.R. §§1.193(b)(1), Appellants respectfully reply to the Examiner's Answer dated June 25, 2004.

Claim 22 recites the following:

A test tube, comprising:
a tube body of unitary construction comprising an enclosed sidewall and an integral bottom that together define a tubular container having an open top, wherein said bottom has an exterior surface upon which machine readable data is encoded within an opaque coating deposited onto said exterior surface to uniquely identify said test tube. [cl. 22, emphasis added]

Thus, claim 22 requires a tubular container that is defined, in part, by an integral bottom having an exterior surface on which an opaque coating is deposited, with machine readable data encoded within that coating.

To support the obviousness rejection of claim 22, the Examiner contends that the carrier part 6 of Wijnschenk corresponds to the integral bottom of the present invention as defined in claim 22. See pg. 7 of the Examiner's Answer. However, a proper reading of Wijnschenk et al. reveals that the carrier part 6 is not the bottom of a tubular container but is in fact a component that is separate from

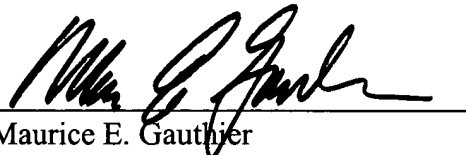
and adapted to be attached to the bottom end of a tubular container. More specifically, Wijnschenk et al. states:

“FIG. 1 shows a test tube 1. Said test tube 1 consists of a tubular container 2 having at its top end a filling aperture 20 which may be shut off if necessary. At the bottom end, the tubular container 2 is provided with a bottom 3... The optically opaque surface 7 in the case of the test tube according to FIG. 1 is applied to a carrier part 6 fixed at the bottom end of the tubular container 2...” [col. 6, lines 4-8 and lines 36-40, emphasis added].

Thus, for at least the foregoing reason it is respectfully requested that the Board reverse the Examiner's obviousness rejection of claim 22 as being premised on the unsustainable contention that Wijnschenk's carrier part 6 corresponds to the integral bottom recited in claim 22.

In addition, it is respectfully requested that the Board also reverse the Examiner's obviousness rejection of claim 29 for at least the reasons discussed above.

Respectfully submitted,



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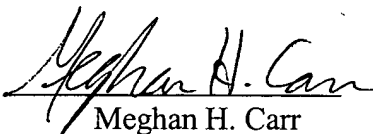
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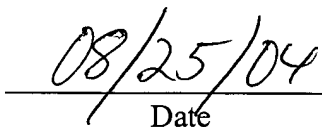
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